



General Assembly

Substitute Bill No. 662

February Session, 2006

* SB00662APP 042406 *

AN ACT CONCERNING DREDGING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 13b-51a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) There shall be in the Department of Transportation a Connecticut
4 Maritime Commission which shall consist of fifteen members, as
5 follows: (1) The Commissioners of Transportation, Economic and
6 Community Development and Environmental Protection, the Secretary
7 of the Office of Policy and Management and the chairman of the
8 Transportation Strategy Board, established pursuant to section 13b-
9 57e, or their respective designees; (2) four members appointed by the
10 Governor; and (3) one member each appointed by the president pro
11 tempore of the Senate, the speaker of the House of Representatives, the
12 majority leader of the Senate, the minority leader of the Senate, the
13 majority leader of the House of Representatives and the minority
14 leader of the House of Representatives. All appointed members shall
15 serve for terms coterminous with their appointing authority and until
16 their successor is appointed and has qualified. Vacancies on said
17 commission shall be filled for the remainder of the term in the same
18 manner as original appointments.

19 (b) Appointed members of the commission shall be qualified by
20 experience or training and shall include members of the public and (1)

21 a representative of business and industry that is a regular user of
22 Connecticut port freight services; (2) a member or employee of a local
23 port authority; (3) a Connecticut port operator; (4) an operator of a
24 marine passenger service; (5) an elected or appointed official from a
25 coastal community; (6) a user or provider of recreational maritime
26 services; and (7) a working member of a port labor union.

27 (c) The chairman shall be selected by the Governor from among the
28 appointed members of the commission. The members shall annually
29 elect one of their numbers as secretary. The commission may elect such
30 other officers as it deems proper. Members shall receive no
31 compensation for the performance of their duties, but shall be
32 reimbursed for necessary expenses incurred in the performance
33 thereof.

34 (d) The commission shall (1) advise the Commissioner of
35 Transportation, the Commissioner of Environmental Protection, the
36 Governor and the General Assembly concerning the state's maritime
37 policy and operations; (2) develop and recommend to the Governor
38 and the General Assembly a maritime policy for the state; (3) support
39 the development of Connecticut's maritime commerce and industries,
40 including its deep water ports; (4) recommend investments and
41 actions, including dredging, required in order to preserve and
42 enhanced maritime commerce and industries; (5) conduct studies and
43 present recommendations concerning maritime issues; (6) support the
44 development of Connecticut's ports, including; identifying new
45 opportunities for the ports, analyzing the potential for and
46 encouraging private investment in the ports and recommending
47 policies which support port operations; (7) in consultation with the
48 Department of Transportation, the Department of Environmental
49 Protection and appropriate federal agencies, develop a comprehensive
50 plan regarding dredging in tidal waters and related disposal,
51 monitoring and transportation of dredge materials; (8) establish an
52 integrated, coherent plan for dredging and dredge material
53 management, which includes beneficial use, dewatering, in-water
54 disposal and upland disposal, as appropriate, that sets forth the state's

55 program for these activities and provides guidance to persons
56 planning to engage in these activities and to designate the council as
57 the lead agency for implementing the purposes of this section and
58 sections 2 to 5, inclusive, of this act; (9) provide for coordinated, timely
59 decision-making by state agencies on applications for dredging,
60 dewatering, and for the beneficial use and in-water and upland
61 disposal of dredged materials, with the goals of providing action,
62 following a determination that the application is complete, on
63 applications for these activities within one hundred eighty days for
64 applications pertaining to maintenance dredging projects and within
65 five hundred forty days for expansion projects; (10) encourage the
66 development of the infrastructure needed to dewater dredged
67 materials, and to facilitate beneficial use of dredged materials in
68 upland areas; (11) encourage and facilitate the beneficial use of
69 dredged materials by private parties; (12) authorize the establishment
70 of a means of supporting projects for dewatering dredged material and
71 for beneficial use and disposal of dredged material at sites above mean
72 high water; and (13) prepare, adopt and maintain a comprehensive
73 plan for dredged material management for dredging that takes place in
74 the coastal zone. Such plan shall include, but not be limited to: (A)
75 Coastal zone and upland areas deemed suitable, depending on the
76 nature and characteristics of the dredged material, for the beneficial
77 use and disposal of dredged material; (B) approved sites or types of
78 areas suitable for dewatering; and (C) protocols for monitoring
79 dredged material disposal sites in the coastal zone. Not later than
80 January 31, 2008, the chairman of the commission shall, compile a list
81 of upland sites and types of areas suitable for beneficial use and
82 disposal of dredged materials and shall adopt such revisions as may be
83 necessary to said list not less than biennially thereafter, which list shall
84 be incorporated in the comprehensive plan for dredged material
85 management.

86 (e) At least once each year, the commission shall hold a public
87 hearing for the purpose of evaluating the adequacy of the state's
88 maritime policy, facilities and support for maritime commerce and

89 industry.

90 (f) On or before January first, annually, the commission shall
91 submit, in writing, to the Commissioner of Transportation, the
92 Governor and the Transportation Strategy Board (1) a list of projects
93 which, if undertaken by the state, would support the state's maritime
94 policy and encourage maritime commerce and industry; (2)
95 recommendations for improvements to existing maritime policies,
96 programs and facilities; and (3) such other recommendations as it
97 considers appropriate. Copies of the report shall be submitted to the
98 General Assembly pursuant to section 11-4a.

99 (g) The commission may, upon its own motion, undertake any
100 studies it deems necessary for the improvement of a balanced public
101 transportation system within the state, including the improvement of
102 such system for elderly and disabled users. The commission shall have
103 other powers and shall perform such other duties as the Commissioner
104 of Transportation, the Governor and the General Assembly may
105 delegate to it.

106 (h) The staff of the Department of Transportation shall be available
107 to assist the commission.

108 (i) No member of the commission who is otherwise a public officer
109 or employee shall suffer a forfeiture of his or her office or employment,
110 or any loss or diminution in the rights and privileges pertaining
111 thereto, by reason of such membership.

112 (j) A quorum of the commission for the purpose of transacting
113 business shall exist only when there is present, in person, a majority of
114 its voting membership. The affirmative vote of a majority of the
115 quorum shall be required for the adoption of a resolution or vote of the
116 commission.

117 (k) The commission shall have access through the Department of
118 Transportation to all records, reports, plans, schedules, operating rules
119 and other documents pertaining to ports and navigable waterways of

120 Connecticut. This subsection shall not apply to any plans, proposals,
121 reports and other documents pertaining to current or pending
122 negotiations with employee bargaining units.

123 (l) The Connecticut Maritime Commission shall be a successor
124 agency to the Connecticut Port Authority in accordance with the
125 provisions of sections 4-38d and 4-39.

126 (m) The Legislative Commissioners' Office shall, in codifying the
127 provisions of this section, make technical, grammatical and
128 punctuation changes as necessary to carry out the purposes of this
129 section.

130 Sec. 2. (NEW) (*Effective from passage*) For the purposes of section 13b-
131 51a of the general statutes and sections 2 to 5, inclusive, of this act:

132 (1) "Beneficial use" means the placement or use of dredged material
133 for some productive purpose, and shall include, but not be limited to,
134 uses such as beach nourishment, habitat creation and enhancement,
135 brownfields redevelopment, landscaping, construction projects and
136 landfill cover.

137 (2) "Coastal zone" means the coastal waters of the state and adjacent
138 lands and other areas that are under the regulatory jurisdiction of the
139 Department of Environmental Protection or the federal Coastal Zone
140 Management Act.

141 (3) "Commission" means the Connecticut Maritime Commission.

142 (4) "Dewatering" means actively or passively removing water from
143 dredged material to facilitate its beneficial use or disposal.

144 (5) "Department" means the Department of Environmental
145 Protection.

146 (6) "Commissioner" means the Commissioner of Environmental
147 Protection.

148 (7) "Disposal" means nontemporary relocation and placement of
149 dredged material other than a beneficial use.

150 (8) "Disposal site" means a precise geographic area within which
151 dredged material is disposed.

152 (9) "Dredged material" means material excavated from the waters of
153 the state, including rock, gravel, sand, clay, silt, mud, organic material
154 and material discarded by humans.

155 (10) "Habitat" means the specific area or environment in which a
156 particular plant or animal lives.

157 (11) "Person" means any individual, group of individuals, firm,
158 corporation, association, partnership or private or public entity,
159 including a district, county, city, town or other governmental unit or
160 agent thereof and, in the case of a corporation, any individual having
161 active and general supervision of the properties of such corporation.

162 (12) "Site" means all contiguous land, structures and appurtenances
163 and improvements.

164 (13) "Site operator" means the person who is responsible for the
165 operation of activities at a beneficial use, dewatering or disposal site
166 for dredged materials.

167 (14) "Site owner" means the person who owns all or a part of a
168 beneficial use, dewatering or disposal site for dredged materials.

169 (15) "Upland areas" means areas that are not in the coastal zone.

170 Sec. 3. (NEW) (*Effective from passage*) (a) Not later than January 1,
171 2008, the Connecticut Maritime Commission and the Department of
172 Environmental Protection shall jointly prepare and adopt protocols
173 and guidelines for coordinated review and action on applications
174 made pursuant to section 22a-361 of the general statutes, which
175 protocols and guidelines shall include, but not be limited to: (1) The
176 elimination of redundant and duplicative processes and reviews; (2) a

177 joint preapplication meeting with the applicant; (3) a timely, joint
178 determination of the completeness of applications, following a
179 suitability determination made by the United States Army Corps of
180 Engineers; and (4) the designation of a project manager for each
181 dredging application who shall coordinate review of the application
182 and serve as the single point of contact for the applicant.

183 (b) The commission, with advice from the department, shall adopt
184 protocols and a plan for monitoring dredged material disposal sites in
185 the coastal zone, which protocols and plan shall be an element of the
186 comprehensive plan for dredged material management and which
187 provide for oversight of matters by the department that are in its
188 jurisdiction pursuant to authority delegated by federal law.

189 Sec. 4. (NEW) (*Effective from passage*) In order to accomplish the
190 purposes of section 13b-51a of the general statutes and sections 2 to 5,
191 inclusive, of this act to provide for beneficial use, dewatering and
192 disposal of dredged material: (1) State agencies, departments,
193 corporations, authorities, boards and commissions, including, but not
194 limited to, the Department of Environmental Protection, the
195 Department of Transportation and the Department of Economic and
196 Community Development and political subdivisions of the state, shall
197 cooperate with the Connecticut Maritime Commission in developing
198 and implementing the comprehensive plan for dredged material
199 management; (2) the Department of Environmental Protection shall
200 seek federal acceptance of the comprehensive plan for dredged
201 material management as an element of the state's coastal zone
202 management program and shall pursue such federal approvals and
203 general permits as may facilitate expeditious action on dredging
204 applications that are consistent with the plan; (3) the Department of
205 Economic and Community Development shall: (A) Not later than
206 October 1, 2008, make available a site to use as a dewatering site for
207 dredged material, which site shall be available for dewatering dredged
208 material until at least September 30, 2011, and may continue to be
209 available thereafter for periods of not less than six months, upon the
210 request of the commission and the approval of the Department of

211 Economic and Community Development; and (B) with advice from the
212 commission and the Department of Economic and Community
213 Development, develop and implement a program to market dredged
214 material for beneficial use by private persons, including, but not
215 limited to, brownfield reclamation projects; and (4) the commission,
216 with the cooperation of the Department of Economic and Community
217 Development, shall develop a proposal for a fund, which may be used
218 to support projects for dewatering dredged material for beneficial use
219 and disposal of dredged material at sites above mean high water and
220 for confined aquatic disposal of dredged materials, which proposal
221 shall be submitted to the General Assembly not later than February 15,
222 2008. The fund shall not be established or go into effect unless it has
223 been approved by the General Assembly.

224 Sec. 5. (NEW) (*Effective from passage*) Not later than January 1, 2008,
225 the Department of Environmental Protection shall adopt regulations,
226 in accordance with the provisions of chapter 54 of the general statutes,
227 to implement the provisions of section 13b-51a of the general statutes
228 and sections 2 to 5, inclusive, of this act, which regulations shall
229 include, but not be limited to, water quality, ground water protection
230 and fish and wildlife protection, as they pertain to dredging and
231 dredged material management. Such regulations shall address: (1)
232 Treatment of dredging and dredged material management and
233 monitoring as a distinct class of activities, to be regulated on the basis
234 of the nature and characteristics of the dredged material; and (2)
235 establishment of procedures for identification of appropriate sites and
236 areas for upland beneficial use and disposal of dredged material.

237 Sec. 6. Subsection (c) of section 22a-92 of the general statutes is
238 repealed and the following is substituted in lieu thereof (*Effective from*
239 *passage*):

240 (c) In addition to the policies stated in subsections (a) and (b) of this
241 section, the following policies are established for federal and state
242 agencies in carrying out their responsibilities under this chapter:

243 (1) Policies concerning development, facilities and uses within the
244 coastal boundary are: (A) To minimize the risk of spillage of petroleum
245 products and hazardous substances, to provide effective containment
246 and cleanup facilities for accidental spills and to disallow offshore oil
247 receiving systems that have the potential to cause catastrophic oil spills
248 in the Long Island Sound estuary; (B) to disallow any filling of tidal
249 wetlands and nearshore, offshore and intertidal waters for the purpose
250 of creating new land from existing wetlands and coastal waters which
251 would otherwise be undevelopable, unless it is found that the adverse
252 impacts on coastal resources are minimal; (C) to initiate in cooperation
253 with the federal government, the Connecticut Maritime Commission
254 and the continuing legislative committee on state planning and
255 development a long-range planning program for the continued
256 maintenance and enhancement of federally-maintained navigation
257 facilities in order to effectively and efficiently plan and provide for
258 environmentally sound dredging and disposal of dredged materials; to
259 encourage, through the state permitting program for dredging
260 activities, the maintenance and enhancement of existing federally-
261 maintained navigation channels, basins and anchorages and to
262 discourage the dredging of new federally-maintained navigation
263 channels, basins and anchorages; (D) to reduce the need for future
264 dredging by requiring that new or expanded navigation channels,
265 basins and anchorages take advantage of existing or authorized water
266 depths, circulation and siltation patterns and the best available
267 technologies for reducing controllable sedimentation; (E) to disallow
268 new dredging in tidal wetlands except where no feasible alternative
269 exists and where adverse impacts to coastal resources are minimal; (F)
270 to require that new or improved shoreline rail corridors be designed
271 and constructed so as (i) to prevent tidal and circulation restrictions
272 and, when practicable, to eliminate any such existing restrictions, (ii) to
273 improve or have a negligible adverse effect on coastal access and
274 recreation, and (iii) to enhance or not unreasonably impair the visual
275 quality of the shoreline; (G) to require that coastal highways and
276 highway improvements, including bridges, be designed and
277 constructed so as to minimize adverse impacts on coastal resources; to

278 require that coastal highway and highway improvements give full
279 consideration to mass transportation alternatives and to require that
280 coastal highways and highway improvements where possible enhance,
281 but in no case decrease coastal access and recreational opportunities;
282 (H) to disallow the construction of major new airports and to
283 discourage the substantial expansion of existing airports within the
284 coastal boundary; to require that any expansion or improvement of
285 existing airports minimize adverse impacts on coastal resources,
286 recreation or access; (I) to manage the state's fisheries in order to
287 promote the economic benefits of commercial and recreational fishing,
288 enhance recreational fishing opportunities, optimize the yield of all
289 species, prevent the depletion or extinction of indigenous species,
290 maintain and enhance the productivity of natural estuarine resources
291 and preserve healthy fisheries resources for future generations; (J) to
292 make effective use of state-owned coastal recreational facilities in order
293 to expand coastal recreational opportunities including the
294 development or redevelopment of existing state-owned facilities where
295 feasible; (K) to require as a condition in permitting new coastal
296 structures, including but not limited to, groins, jetties or breakwaters,
297 that access to, or along, the public beach below mean high water must
298 not be unreasonably impaired by such structures and to encourage the
299 removal of illegal structures below mean high water which
300 unreasonably obstruct passage along the public beach; and (L) to
301 promote the revitalization of inner city urban harbors and waterfronts
302 by encouraging appropriate reuse of historically developed
303 shorefronts, which may include minimized alteration of an existing
304 shorefront in order to achieve a significant net public benefit, provided
305 (i) such shorefront site is permanently devoted to a water dependent
306 use or a water dependent public use such as public access or recreation
307 for the general public and the ownership of any filled lands remain
308 with the state or an instrumentality thereof in order to secure public
309 use and benefit in perpetuity, (ii) landward development of the site is
310 constrained by highways, railroads or other significant infrastructure
311 facilities, (iii) no other feasible, less environmentally damaging
312 alternatives exist, (iv) the adverse impacts to coastal resources of any

313 shorefront alteration are minimized and compensation in the form of
314 resource restoration is provided to mitigate any remaining adverse
315 impacts, and (v) such reuse is consistent with the appropriate
316 municipal coastal program or municipal plan of development.

317 (2) Policies concerning coastal land and other resources within the
318 coastal boundary are: (A) To manage estuarine embayments so as to
319 insure that coastal uses proceed in a manner that assures sustained
320 biological productivity, the maintenance of healthy marine
321 populations and the maintenance of essential patterns of circulation,
322 drainage and basin configuration; to protect, enhance and allow
323 natural restoration of eelgrass flats except in special limited cases,
324 notably shellfish management, where the benefits accrued through
325 alteration of the flat may outweigh the long-term benefits to marine
326 biota, waterfowl, and commercial and recreational finfisheries, and (B)
327 to maintain, enhance, or, where feasible, restore natural patterns of
328 water circulation and fresh and saltwater exchange in the placement or
329 replacement of culverts, tide gates or other drainage or flood control
330 structures.

331 Sec. 7. Section 22a-359 of the general statutes is repealed and the
332 following is substituted in lieu hereof (*Effective from passage*):

333 (a) The Commissioner of Environmental Protection, in consultation
334 with the Connecticut Maritime Commission, shall regulate dredging
335 and the erection of structures and the placement of fill, and work
336 incidental thereto, in the tidal, coastal or navigable waters of the state
337 waterward of the high tide line. Any decisions made by the
338 commissioner and said commission pursuant to this section shall be
339 made with due regard for indigenous aquatic life, fish and wildlife, the
340 prevention or alleviation of shore erosion and coastal flooding, the use
341 and development of adjoining uplands, the improvement of coastal
342 and inland navigation for all vessels, including small craft for
343 recreational purposes, the use and development of adjacent lands and
344 properties and the interests of the state, including pollution control,
345 water quality, recreational use of public water and management of

346 coastal resources, with proper regard for the rights and interests of all
347 persons concerned.

348 (b) After consultation with the Commissioner of Transportation and
349 the Connecticut Maritime Commission, the Commissioner of
350 Environmental Protection may consider any sunken or grounded
351 vessel, scow, lighter or similar structure lying within the tidal, coastal
352 or navigable waters of the state to be an encroachment subject to the
353 provisions of this section and sections 22a-360 to 22a-363, inclusive.

354 (c) As used in this section and sections 22a-360 to 22a-363, inclusive,
355 "high tide line" means a line or mark left upon tide flats, beaches, or
356 along shore objects that indicates the intersection of the land with the
357 water's surface at the maximum height reached by a rising tide. The
358 mark may be determined by (1) a line of oil or scum along shore
359 objects, (2) a more or less continuous deposit of fine shell or debris on
360 the foreshore or berm, (3) physical markings or characteristics,
361 vegetation lines, tidal gauge, or (4) by any other suitable means
362 delineating the general height reached by a rising tide. The term
363 includes spring high tides and other high tides that occur with periodic
364 frequency but does not include storm surges in which there is a
365 departure from the normal or predicted reach of the tide due to the
366 piling up of water against a coast by strong winds such as those
367 accompanying a hurricane or other intense storm.

368 Sec. 8. Section 22a-360 of the general statutes is repealed and the
369 following is substituted in lieu thereof (*Effective from passage*):

370 In order to carry out the purposes of sections 22a-359 to 22a-363,
371 inclusive, the commissioner, in consultation with the Connecticut
372 Maritime Commission, is authorized to establish boundaries
373 waterward of the high tide line along tidal, coastal and navigable
374 waters for equitable regulation of use, dredging, obstruction and
375 encroachment thereof, and to establish areas for development of small
376 boat basins or other facilities, provided such establishments shall be
377 made in accordance with a general plan prepared for the orderly

378 development of the area or region.

379 Sec. 9. Section 22a-361 of the general statutes is repealed and the
380 following is substituted in lieu thereof (*Effective from passage*):

381 (a) No person, firm or corporation, public, municipal or private,
382 shall dredge, erect any structure, place any fill, obstruction or
383 encroachment or carry out any work incidental thereto or retain or
384 maintain any structure, dredging or fill, in the tidal, coastal or
385 navigable waters of the state waterward of the high tide line until such
386 person, firm or corporation has submitted an application and has
387 secured from said commissioner a certificate or permit for such work
388 and has agreed to carry out any conditions necessary to the
389 implementation of such certificate or permit. Each application for a
390 permit, except for an emergency authorization, for any structure,
391 filling or dredging which uses or occupies less than five thousand five
392 hundred square feet in water surface area based on the perimeters of
393 the project shall be accompanied by a fee equal to eighty cents per
394 square foot provided such fee shall not be less than five hundred
395 twenty-five dollars. Each application for a permit for any structure,
396 filling or dredging which uses or occupies five thousand five hundred
397 square feet or more but less than five acres in water surface area based
398 on the perimeters of the project shall be accompanied by a fee of three
399 thousand three hundred dollars plus ten cents per square foot for each
400 square foot in excess of five thousand five hundred square feet. Each
401 application for a permit for any structure, filling or dredging which
402 uses or occupies five or more acres in water surface area based on the
403 perimeters of the project shall be accompanied by a fee of nineteen
404 thousand two hundred twenty-three dollars plus five hundred twenty-
405 five dollars per acre for each acre or part thereof in excess of five acres.
406 Each application for a mooring area or multiple mooring facility,
407 regardless of the area to be occupied by moorings, shall be
408 accompanied by a fee of five hundred twenty-five dollars provided
409 that such mooring areas or facilities shall not include fixed or floating
410 docks, slips or berths. Application fees for aquaculture activities shall
411 not be based on areal extent. The commissioner may waive or reduce

any fee payable to him for (1) a tidal wetlands or coastal resource restoration or enhancement activity, (2) experimental activities or demonstration projects, (3) nonprofit academic activities, or (4) public access activities in tidal, coastal or navigable waters, provided no fee shall be waived or reduced for activities required by statute, regulation, permit, order or enforcement action. As used in this section, "resource restoration or enhancement activity" means an action taken to return a wetland or coastal resource to a prior natural condition or to improve the natural functions or habitat value of such resource, but shall not include actions required pursuant to an enforcement action of the commissioner, and "public access activities" means activities whose principal purpose is to provide or increase access for the general public to tidal, coastal or navigable waters, including, but not limited to, boardwalks, boat ramps, observation areas and fishing piers.

(b) The commissioner, at least thirty days before approving or denying an application for a permit, shall provide or require the applicant to provide, by certified mail, return receipt requested, to the applicant, to the Commissioner of Transportation, the Connecticut Maritime Commission, the Attorney General and the Commissioner of Agriculture and to the chief executive officer, the chairmen of the planning, zoning, harbor management and shellfish commissions of each town in which such structure, fill, obstruction, encroachment or dredging is to be located or work to be performed, and to the owner of each franchised oyster ground and the lessee of each leased oyster ground within which such work is to be performed and shall publish once in a newspaper having a substantial circulation in the area affected, notice of (1) the name of the applicant; (2) the location and nature of the proposed activities; (3) the tentative decision regarding the application; and (4) any additional information the commissioner deems necessary. There shall be a comment period following the public notice during which interested persons may submit written comments. The commissioner may hold a public hearing prior to approving or denying an application if, in the commissioner's

446 discretion, the public interest will best be served by holding such
447 hearing. The commissioner shall hold a public hearing if the
448 commissioner receives a petition requesting such hearing that is signed
449 by twenty-five or more persons and an application will: (A)
450 Significantly impact any shellfish area, as determined by the director of
451 the Bureau of Aquaculture at the Department of Agriculture, (B) have
452 interstate ramifications, or (C) involve any project that requires a
453 certificate issued pursuant to section 16-50k, as amended, or approval
454 by the Federal Energy Regulatory Commission. Following such notice
455 and comment period and public hearing, if applicable, the
456 commissioner may, in whole or in part, approve, modify and approve
457 or deny the application. The commissioner shall provide to the
458 applicant and the persons set forth above, by certified mail, return
459 receipt requested, notice of his decision. If the commissioner requires
460 the applicant to provide the notice specified in this subsection, the
461 applicant shall certify to the commissioner, no later than twenty days
462 after providing such notice, that such notice has been provided in
463 accordance with this subsection.

464 (c) The Commissioner of Environmental Protection, in consultation
465 with the Connecticut Maritime Commission, may adopt, in accordance
466 with the provisions of chapter 54, regulations to carry out the
467 provisions of sections 22a-359 to 22a-363, inclusive. Such regulations
468 shall establish the procedures for reviewing and acting upon
469 applications for permits, certificates of permission and emergency
470 authorizations. The regulations shall be consistent with sections 22a-28
471 to 22a-35, inclusive, and regulations adopted thereunder, sections 22a-
472 90 to 22a-100, inclusive, and sections 22a-113k to 22a-113t, inclusive.
473 They shall establish criteria for granting, denying, limiting,
474 conditioning or modifying permits giving due regard for the impact of
475 regulated activities and their use on the tidal, coastal or navigable
476 waters of the state, adjoining coastal and tidal resources, tidal
477 wetlands, navigation, recreation, erosion, sedimentation, water quality
478 and circulation, fisheries, shellfisheries, wildlife, flooding and other
479 natural disasters and water-dependent use opportunities as defined in

480 section 22a-93. The regulations may provide for consideration of local,
481 state and federal programs affecting tidal, coastal and navigable waters
482 of the state and the development of the uplands adjacent thereto and
483 may set forth informational material describing general categories of
484 regulated activities for the purpose of providing permit applicants
485 with a more explicit understanding of the regulations. Such
486 informational material shall be consistent with and shall not increase
487 the discretion granted to the commissioner under the policies,
488 standards and criteria contained in sections 22a-359, 22a-92 and 22a-93,
489 and this section.

490 (d) (1) The Commissioner of Environmental Protection may issue a
491 general permit for any minor activity regulated under sections 22a-28
492 to 22a-35, inclusive, or sections 22a-359 to 22a-363f, inclusive, if the
493 commissioner determines that such activity would (A) cause minimal
494 environmental effects when conducted separately, (B) cause only
495 minimal cumulative environmental effects, (C) not be inconsistent with
496 the considerations and the public policy set forth in sections 22a-28 to
497 22a-35, inclusive, and section 22a-359, as applicable, (D) be consistent
498 with the policies of the Coastal Management Act and the
499 comprehensive dredging plan developed by the Connecticut Maritime
500 Commission, and (E) constitute an acceptable encroachment into
501 public lands and waters. Such activities may include routine minor
502 maintenance and routine minor repair of existing structures, fill,
503 obstructions, encroachments or excavations; substantial maintenance
504 consisting of rebuilding, reconstructing or reestablishing to a
505 preexisting condition and dimension any structure, fill, obstruction,
506 encroachment or excavation; maintenance dredging of areas which
507 have been dredged and continuously maintained as serviceable;
508 activities allowed pursuant to a perimeter permit; the removal of
509 structures, derelict vessels, debris, rubbish or similar discarded
510 material or unauthorized fill material; minor alterations or
511 amendments to authorized activities consistent with the authorization
512 for such activities; activities which have been required or allowed by
513 an order of the commissioner; open water marsh management by or

514 under the supervision of the Department of Public Health or
515 Department of Environmental Protection; conservation activities of or
516 under the supervision or direction of the Department of
517 Environmental Protection; construction of individual residential docks
518 which do not create littoral or riparian conflicts, navigational
519 interference, or adverse impacts to coastal resources as defined by
520 section 22a-93, which are not located in tidal wetlands as defined by
521 section 22a-29 and which extend no further than forty feet waterward
522 of mean high water or to a depth of minus four feet mean low water,
523 whichever point is more landward; installation of scientific measuring
524 or monitoring devices; survey activities including excavation of test
525 pits and core sampling and driving of test pilings; construction of
526 utility lines; aquacultural activities; and installation and removal of
527 small seasonal structures including floats and moorings. Any person
528 conducting an activity for which a general permit has been issued shall
529 not be required to obtain an individual permit or certificate under any
530 other provision of sections 22a-28 to 22a-35, inclusive, or sections 22a-
531 359 to 22a-363f, inclusive, for that activity except as provided in
532 subdivision (3) of this subsection. A general permit shall clearly define
533 the activity covered thereby and may include such conditions and
534 requirements as the commissioner deems appropriate, including, but
535 not limited to, construction timing, methodologies and durations,
536 resource protection practices, management practices, and verification
537 and reporting requirements. The general permit may require any
538 person proposing to conduct any activity under the general permit to
539 register such activity, including obtaining approval from the
540 commissioner, before the general permit becomes effective as to such
541 activity. Registrations and applications for approval under the general
542 permit shall be submitted on forms prescribed by the commissioner.
543 Any approval by the commissioner under a general permit may
544 include conditions specific to the proposed activity to ensure
545 consistency with the requirements for issuance of the general permit.
546 The commissioner shall prepare, and annually amend, a list of holders
547 of general permits under this section, which list shall be made
548 available to the public.

549 (2) Notwithstanding any other procedures specified in sections 22a-
550 28 to 22a-35, inclusive, and sections 22a-359 to 22a-363f, inclusive, any
551 regulations adopted thereunder, and chapter 54, the commissioner
552 may issue a general permit in accordance with the following
553 procedures: (A) The commissioner shall publish in a newspaper
554 having a substantial circulation in the affected area or areas notice of
555 intent to issue a general permit; (B) the commissioner shall allow a
556 comment period of thirty days following publication of such notice
557 during which interested persons may submit written comments
558 concerning the permit to the commissioner and the commissioner shall
559 hold a public hearing if, within said comment period, he receives a
560 petition signed by at least twenty-five persons; (C) the commissioner
561 may not issue the general permit until after the comment period; (D)
562 the commissioner shall publish notice of any permit issued in a
563 newspaper having substantial circulation in the affected area or areas;
564 and (E) summary suspension may be ordered in accordance with
565 subsection (c) of section 4-182. Any person may request that the
566 commissioner issue, modify or revoke a general permit in accordance
567 with this subsection.

568 (3) Subsequent to the issuance of a general permit, the commissioner
569 may require any person whose activity is or may be covered by the
570 general permit to apply for and obtain an individual permit or
571 certificate under the provisions of sections 22a-28 to 22a-35, inclusive,
572 or sections 22a-359 to 22a-363f, inclusive, for all or any portion of the
573 activities covered by the general permit, if the commissioner
574 determines that an individual permit is necessary to assure consistency
575 with purposes and policies of such sections, the comprehensive
576 dredging plan developed by the Connecticut Maritime Commission
577 and the Coastal Management Act. The commissioner may require an
578 individual permit under this subdivision in cases including, but not
579 limited to, the following: (A) The permittee is not in compliance with
580 the conditions of the general permit; (B) an individual permit or
581 certificate is appropriate because of circumstances specific to the site;
582 (C) circumstances have changed since the time the general permit was

583 issued so that the permitted activity is no longer acceptable under the
584 general permit; or (D) a change has occurred in relevant law. The
585 commissioner may require an individual permit or certificate under
586 this section only if the affected person has been notified in writing that
587 an individual permit or certificate is required. The notice shall include
588 a brief statement of the reasons for the decision.

589 (4) The commissioner, in consultation with the Connecticut
590 Maritime Commission, may adopt regulations, in accordance with the
591 provisions of chapter 54, to carry out the purposes of this section.

592 (5) Notwithstanding any provision of sections 22a-359 to 22a-363f,
593 inclusive, pending issuance of a general permit for aquaculture
594 activities by the commissioner in accordance with this section, no
595 permit or certificate shall be required for the placement, maintenance
596 or removal of (A) individual structures used for aquaculture, as
597 defined in section 22-416, including, but not limited to, cages or bags,
598 which are located on designated state or municipal shellfish beds
599 which structures create no adverse impacts on coastal resources or
600 navigation over their location, or (B) any buoys used to mark such
601 structures. Upon issuance of a general permit for aquaculture activities
602 in accordance with this section, any aquaculture activities shall comply
603 with the terms of such general permit or other applicable provisions of
604 sections 22a-359 to 22a-363f, inclusive.

605 (e) No person, firm or corporation, public, municipal or private,
606 who removes sand, gravel or other material lying waterward of the
607 mean high water mark of the tidal, coastal or navigable waters of the
608 state pursuant to a permit issued under this section on or after October
609 1, 1996, shall make any beneficial or commercial use of such sand,
610 gravel or other material except upon payment to the state of a fee of
611 four dollars per cubic yard of such sand, gravel and other materials.
612 Such payment shall be made at times and under conditions specified
613 by the commissioner in such permit. No fee shall be assessed for (1) the
614 performance of such activities on land which is not owned by the state,
615 (2) the use of sand, gravel or other materials for beach restoration

616 projects, or (3) ultimate disposal of such sand, gravel or other materials
617 which does not result in an economic benefit to any person. For the
618 purposes of this section, "beneficial or commercial use" includes, but is
619 not limited to, sale or use of sand, gravel or other materials for
620 construction, aggregate, fill or landscaping.

621 (f) When any damage may arise to any person, firm or corporation
622 from the taking of sand, gravel or other material as provided in
623 subsection (e) of this section and the applicant authorized by the
624 commissioner to take sand, gravel or other material cannot agree with
625 such person, firm or corporation as to the amount of damage which
626 may result from such taking, the commissioner shall require the
627 applicant, as a condition precedent to the taking of sand, gravel or
628 material pursuant to any permit hereunder, to post bond, with good
629 and sufficient surety, or to deposit such sum with the State Treasurer,
630 for the protection of any person, firm or corporation claiming damage
631 which may result from such taking, as the commissioner determines
632 sufficient to cover all damages, including interest from the date of the
633 taking, which could reasonably result to any person, firm or
634 corporation from such taking.

635 (g) The procedure for the subsequent determination of the amount
636 of actual damage shall be as follows: The commissioner shall prefer a
637 petition to the superior court for the judicial district of Hartford or to a
638 judge thereof in vacation, praying that the amount of such damage
639 may be determined. Such petition shall be accompanied by a summons
640 signed by competent authority, to be served as process in civil action
641 before said court, notifying the applicant and any person, firm or
642 corporation claiming damage from the taking, to appear before said
643 court or such judge, and thereupon said court or judge shall appoint a
644 committee of three disinterested persons, one of whom may be a state
645 referee, who shall be sworn before commencing their duties. Such
646 committee, after giving reasonable notice to all parties of the time and
647 place of hearing, shall hear and receive evidence from all parties
648 concerning the damage and shall make an award. Such committee
649 shall make a report of its doings and the award to said court or such

650 judge, who may accept such report or reject it for irregular or improper
 651 conduct by the committee in the performance of its duties. If the report
 652 is rejected, the court or judge shall appoint another committee, which
 653 shall proceed in the same manner as the first committee was required
 654 to proceed. If the report is accepted, such acceptance shall have the
 655 effect of a judgment and the applicant shall pay the amount of any
 656 such award to the clerk of the Superior Court for the account of the
 657 persons entitled thereto within sixty days after the judgment is entered
 658 or, in the case of an appeal, after the final judgment. Any party may,
 659 within sixty days, appeal such judgment in the manner provided by
 660 law.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	13b-51a
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	22a-92(c)
Sec. 7	<i>from passage</i>	22a-359
Sec. 8	<i>from passage</i>	22a-360
Sec. 9	<i>from passage</i>	22a-361

ENV *Joint Favorable Subst.*

TRA *Joint Favorable*

APP *Joint Favorable*